

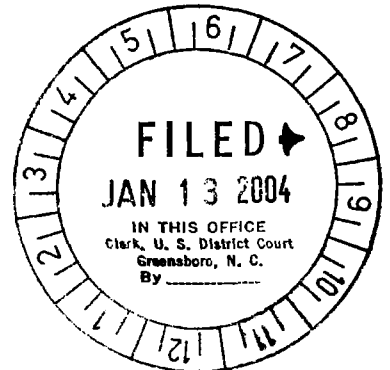
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CROWN CORK & SEAL COMPANY, INC. )  
and CLARK EQUIPMENT COMPANY, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CBS CORPORATION, et al., )  
 )  
Defendants. )  
----- )  
CBS CORPORATION, et al., )  
 )  
Third-Party Plaintiffs, )  
 )  
v. )  
 )  
INGERSOLL-RAND COMPANY, et al., )  
 )  
Third-Party Defendants. )

1:99CV00869



**RECOMMENDATION NO. 22 OF UNITED STATES MAGISTRATE JUDGE**

Plaintiffs have filed a motion to dismiss and bar all further claims, cross-claims and third-party claims against settling defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc., Radiator Specialty Company, Inc., and Duke Energy Corporation. (Docket No. 406) No party has filed an opposition. The basis for this motion is the same as was dealt with in Recommendation No. 3. This Recommendation was adopted by the Court and judgment was entered on January 9, 2001. (Docket Nos. 219 & 220) For the same reasons as were set out in Recommendation No. 3, it is recommended that plaintiffs' motion to dismiss as to these defendants should be granted.

**IT IS THEREFORE RECOMMENDED** that plaintiffs' motion to dismiss defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc.,

3. Radiator Specialty Company, Inc., and Duke Energy Corporation as defendants from this lawsuit with prejudice, and further, that all claims, including cross-claims arising out of plaintiffs' claims for recovery of their RI/FS costs, RD/RA costs, or any other response costs, against defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc., Radiator Specialty Company, Inc., and Duke Energy Corporation (docket no. 406) be granted, and that the Court, in fact, dismiss all claims and any cross-claims by any party against defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc., Radiator Specialty Company, Inc., and Duke Energy Corporation with prejudice as a result of their settlement of plaintiffs' claims, and further, that the Court accept the Uniform Comparative Fault Act proportionate share rule for this case so that plaintiffs' contribution claims against the non-settling defendants will be reduced by the fair shares of defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc., Radiator Specialty Company, Inc., and Duke Energy Corporation, and further, that a final, appealable judgment be entered concerning the dismissal of defendants Cummins Atlantic, Inc., Moss Trucking Company, Inc., Radiator Specialty Company, Inc., and Duke Energy Corporation from this action, inasmuch as there is no just reason to delay the entry of a final, appealable judgment.

  
United States Magistrate Judge

January 13, 2004